

ASSEMBLY BILL

No. 1935

Introduced by Assembly Member De Leon

February 17, 2010

An act to amend Section 25128.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1935, as introduced, De Leon. Corporate income tax: single sales factor.

The Corporation Tax Law imposes taxes measured by income and, in the case of a business with income derived from or attributable to sources both within and without this state, apportions the income between this state and other states and foreign countries in accordance with a specified 4-factor formula based on the property, payroll, and sales within and without this state, except that in the case of an apportioning trade or business that derives more than 50% of its gross business receipts from conducting one or more qualified business activities, as defined, business income is apportioned in accordance with a specified 3-factor formula. Existing law, for taxable years beginning on or after January 1, 2011, allows a taxpayer to make an annual election to have that income apportioned in accordance with a single sales factor formula, except as provided.

This bill would, for a taxpayer that would otherwise be able to elect to have its income apportioned in accordance with a single sales factor formula, require the taxpayer to apportion its income in accordance with a single sales factor formula.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article

XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25128.5 of the Revenue and Taxation
2 Code is amended to read:

3 25128.5. (a) Notwithstanding Section 38006, for taxable years
4 beginning on or after January 1, 2011, any apportioning trade or
5 business, other than an apportioning trade or business described
6 in subdivision (b) of Section 25128, ~~may make an irrevocable~~
7 ~~annual election on an original timely filed return, in the manner~~
8 ~~and form prescribed by the Franchise Tax Board to~~ shall apportion
9 its income in accordance with this section, and not in accordance
10 with Section 25128.

11 (b) Notwithstanding Section 38006, for taxable years beginning
12 on or after January 1, 2011, all business income of an apportioning
13 trade or business ~~making an election~~ described in subdivision (a)
14 shall be apportioned to this state by multiplying the business
15 income by the sales factor.

16 (c) The Franchise Tax Board is authorized to issue regulations
17 necessary or appropriate regarding the ~~making of an election under~~
18 ~~administration of~~ this section, ~~including regulations that are~~
19 ~~consistent with rules prescribed for making an election under~~
20 ~~Section 25113.~~

21 SEC. 2. This act provides for a tax levy within the meaning of
22 Article IV of the Constitution and shall go into immediate effect.